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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,333	09/25/2003	Todd Werpy	E-1715-DIV	9671
21567	7590	03/02/2006	EXAMINER	
WELLS ST. JOHN P.S. 601 W. FIRST AVENUE, SUITE 1300 SPOKANE, WA 99201			NGUYEN, CAM N	
			ART UNIT	PAPER NUMBER
			1754	

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/672,333

Applicant(s)

WERPY ET AL.

Examiner

Cam N. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01/04/06 (an election).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 19-29,31,32 and 34-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-29,31,32 and 34-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/25/06 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date originally filed.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### **Response to Election/Restriction**

1. Applicant's election without traverse of Group II, claims 19-29 & 31-36, in the reply filed on January 04, 2006 is acknowledged.

### **Response to Amendment**

2. Applicants' amendment and remarks, filed January 04, 2006, has been made of record and entered. Claims 1-18, 30, 33, & 37 have been canceled.

Claims 19-29, 31-32, & 34-36 are currently pending and under consideration.

### **Claim Rejections - 35 USC § 112 (Second paragraph)**

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 19-29, 31-32, & 34-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. Claim 19 recites the limitation "the catalyst component" in line 7. There is insufficient antecedent basis for this limitation in the claim.

B. Regarding claim 19, last five lines, the phrase "at least about 70% of the catalyst component is within about 5 um of the minimum area that encompasses about 80% of the metal oxide; and wherein at least about 5% of the catalyst component is at least

about 10 um from the exterior of the support” is unclear as to what being claimed or defined. Thus, it renders the claim vague and indefinite.

C. Regarding claims 28-29, 31-32, & 34-36, same as in B.

**Claim Rejections - 35 USC § 102(b)**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 19-29, 31-32, & 34-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Mori et al., “hereinafter Mori”, (US Pat. 5,972,525).

Mori discloses a catalyst comprising solid particles and a catalytic component supported thereon, wherein the solid particles comprise a substantially homogeneous mixture of an active carbon and an attrition-resistant inorganic substance and which have an average particle size of small than 300 um, wherein the attrition resistant inorganic substance comprises at least one metal oxide selected from the group consisting of silica, titania, zirconia, alumina and silica-alumina (see col. 17, claim 15). Suitable catalytic components including noble metals, such as Rh, Pt, Pd, Ir, Ru, OS, etc. (see col. 6, ln 60- col. 7, ln 19). Mori further discloses that the catalytic component can be supported on the solid particles by coprecipitation method (see col. 8, ln 25-28). The amount of catalytic components added are not particularly limited in the preparation of the catalyst as long as the obtained catalyst can exhibit an activity in the reaction

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(see col. 8, ln 29-33). However, preferably, the catalytic components are used in an amount of about 1 to 20% by weight (see col. 8, ln 29- col. 9, ln 3).

With respect to the claimed catalyst properties and particle size distributions, it is considered that since the disclosed support material has the same particle size as being claimed, it is inherent that the disclosed catalyst would possess the same catalyst properties and particle size distributions.

### **Citations**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. All references are cited for related art. See PTO-892 Form prepared attached.

### **Conclusion**

8. Claims 19-29, 31-32, & 34-36 are pending. Claims 19-29, 31-32, & 34-36 are rejected. No claims are allowed.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner Cam N Nguyen, whose telephone number is 571-272-1357. The examiner can normally be reached on M, W, R, & F, 9:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nguyen/cnn *Cnn*  
February 28, 2006

*Cam Nguyen*  
CAM N. NGUYEN  
PRIMARY EXAMINER

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